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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,649	07/23/2003	Robert R. Ricci	FS-00790	6899
7055	7590	03/08/2006		
GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			EXAMINER HESS, DOUGLAS A	
			ART UNIT	PAPER NUMBER
			3651	

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/624,649

Applicant(s)

RICCI ET AL.

Examiner

Douglas A. Hess

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. ***The following is a quotation of the first paragraph of 35 U.S.C. 112:***

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-18 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. ***The specification and the drawings do not provide enough detail as to how the tilt head 124 is pivotally connected to the pallet lift 123. The current drawing figures show the lift head 124 above and unattached to the platform. Secondly the specification and drawings do not provide any level of detail as to how the separation conveyor 127 moves into the separation space at the platform 123.*** These features are critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 1-6, 8, 11, 13-16, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Hasegawa (US Pat. No. 5,222,857).

See previously submitted marked up drawings.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hasegawa in view of Teegarden et al. (US Pat. No. 5,427,252).

Hasegawa teaches the claimed invention as outlined above, except for the generic bar code reader and optical recognition system of claim 7. Teegarden et al. teach the use of a bar

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code reader and optical recognition system in his sorting and stacking device. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the bar code and reader system of Teegarden into the device of Hasegawa in order to further provide routing details for the bundles as they leave the Hasegawa and go further downstream.

8. Claims 9, 10, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hasegawa in view of Carlson (US Pat. No. 4,119,219).

Hasegawa teaches the claimed invention as outlined above, except for the generic diverter and distribution conveyor of claims 9 and 17. Carlson teaches the use of a diverter leading to two distribution conveyors, one distribution conveyor being orthogonal to the main conveyor in his sorting device. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the diverter and distribution conveyors of Carlson at the end of the device of Hasegawa in order to further provide detailed distribution for the bundles as they leave the Hasegawa and go further downstream.

Conclusion

9. Applicant's arguments filed December 22, 2005 have been fully considered but they are not persuasive.

RE 112 first paragraph rejections: Even though the specification and the drawings show a symbol for a hinge and as the applicant has reinforced that a hinge is a well known conventional feature. In the instant case, the examiner disagrees. The hinge 125 is ONLY attached to the tilt head 124 as shown in the drawings and not showing the connection to the

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pallet lift 123. In this case the hinge would require an additional feature, over and above a simple hinge as argued by the applicant. Because the tilt head 124 and the pallet lift 123 are vertically adjustable with respect to each other, a simple hinge as stated would not provide enough detail. Further, it appears the connecting device of the hinge 125 to the pallet lift 123 could conflict with the space in which the pallets enter the lift 123 from the pallet input conveyor 110.

The rotatable platform "R" as added in the drawing correction lacks the necessary detail as well. A rotary platform by itself is well known in the art, however, the addition of a shown scissors jack arrangement for lifting the pallet lift 123 does not readily allow one how the lift platform can be rotated when rigidly connected to a scissors jack as shown in drawing figure 2.

The separation conveyor 127 lacks detail as well. Because of the complexity of the interaction between the staging conveyor 200, the tilt head 124, the pallet lift 123, the rotation device "R" and the separation conveyor 127, one can NOT easily understand the interaction of all of the components with respect to the separation conveyor 127 as stated by the applicant. It appears the separation conveyor must slide within the limits of tilt head 124 to be able to support the objects dropped down from the tilt head 124. After this step the separation conveyor 127 must shift the articles over to the staging conveyor 200. This is not clear how the separation conveyor 127 can drop the objects onto the staging conveyor 200 without having some sort of widening device so that the articles can be dropped down onto the staging conveyor 200. Once again there is not enough detail for the interaction of all of the parts to work together so that one skilled in the art could reasonably understand how the invention works as disclosed.

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RE 102 Rejections: The applicant argues that Hasegawa does not teach a separation space so that a conveyor can move the load. The examiner points out in Hasegawa figure 4C, the conveyor rollers 10 do move into a separation space created by the lift mechanism 23 and 25 as claimed in claims 1 and 13.

If the applicant wishes to invoke the “means for” language 112 6th paragraph, then he must make this part of the written record.

RE 103 Rejections: These rejections stand with the 102 rejections.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas A. Hess whose telephone number is 571-272-6915. The examiner can normally be reached on M-Thurs 5:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on 571-272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Douglas A Hess
Primary Examiner
Art Unit 3651

3/3/06

DAH
March 3, 2006